

§ 1108.9

rule, where evidence is submitted in written form, the complaining party will proceed first, and the defendant will proceed next. The complainant will then be given an opportunity to submit a reply. At the discretion of the Arbitrator, argument may be submitted with each evidentiary filing or in the form of a brief after the submission of all evidence. Page limits will be set by each Arbitrator for all written submissions of other than an evidentiary nature.

(d) Any written document, such as a common carrier rate schedule, upon which a party relies should be submitted as part of that party's proof, in whole or in relevant part. The Arbitrator will not be bound by formal rules of evidence, but will avoid basing a decision entirely or largely on unreliable proof.

(e) Where proof submitted to an Arbitrator addresses railroad costs, such proof should be prepared in accordance with the standards employed by the STB in ascertaining the costs at issue. Discovery should be sufficient to enable parties to meet these standards.

(f) Where the Arbitrator is advised that any party to an arbitration proceeding wishes to keep matters relating to the arbitration confidential, the Arbitrator shall take such measures as are reasonably necessary to ensure that such matters are treated confidentially by the parties or their representatives and are not disclosed by the Arbitrator to non-authorized persons. If the Arbitrator regards any confidential submission as being essential to his/her written decision, such information may be considered in the decision, but the Arbitrator will make every effort to omit confidential information from his/her written decision.

§ 1108.9 Decisions.

(a) Decisions of the Arbitrator shall be in writing and shall contain findings of fact and conclusions. All such decisions shall be served by the Arbitrator by hand delivery or overnight mail on the parties. At the same time, the arbitrator shall notify the STB, in writing, that a decision has been rendered.

(b) By agreeing to arbitrate pursuant to these procedures, each party agrees that the decision and award of the Ar-

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bitrator shall be binding and judicially enforceable in law and equity in any court of appropriate jurisdiction, subject to a limited right of appeal to the STB as provided below.

§ 1108.10 Precedent.

Decisions rendered by arbitrators pursuant to these procedures shall have no precedential value.

§ 1108.11 Enforcement and appeals.

(a) An arbitration decision rendered pursuant to these procedures may be appealed to the STB within 20 days of service of such decision. Any such appeal shall be served by hand delivery or overnight mail on the parties and on the STB, together with a copy of the arbitration decision. Replies to such appeals may be filed within 20 days of the filing of the appeal with the Board. An appeal or a reply under this paragraph shall not exceed 20 pages in length. The parties shall furnish to the STB an original and 10 copies of appeals and replies filed pursuant to this section. The filing fee for an appeal will be as set forth in 49 CFR 1002.2(f)(87).

(b) The filing of an appeal, as allowed in paragraph (a) of this § 1108.11, automatically will stay an arbitration decision pending disposition of the appeal. The STB will decide any such appeal within 50 days after the appeal is filed. Such decision by the STB shall be served in accordance with normal STB service procedures.

(c) The STB will review, and may vacate or amend, an arbitration award, in whole or in part, only on the grounds that such award

(1) Exceeds the STB's statutory jurisdiction; or

(2) Does not take its essence from the Interstate Commerce Act.

(d) Effective arbitration decisions rendered pursuant to these procedures, whether or not appealed to the STB, may only be enforced in accordance with 9 U.S.C. 9 and vacated by a court in accordance with 9 U.S.C. 10, except that an STB decision vacating an arbitration award is reviewable under the Hobbs Act, 28 U.S.C. 2321, 2342.